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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/708,309 11/07/00 GILMER

P FPC3 (6208.T

EXAMINER

WRIGHT, A

ART UNIT	PAPER NUMBER
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3617

DATE MAILED:

09/07/01

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PM82/0907

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/708,309

Applicant(s)

GILMER, PATTI C.

Examiner

Andrew Wright

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-13 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other:

DETAILED ACTION

Drawings

1. The drawings are objected to because figures 12 and 13 should have individual labels for each figure (e.g. FIG 12A, FIG. 12B, etc.). Correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 4-9, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Darcy et al. (US 5,823,838). Darcy discloses, in line 55 of column 6 through line 3 of column 7, in lines 45-65 of column 16, and in figures 20 - 22, a flotation suit that comprises a form-fitting torso covering with pockets that receive and retain buoyant material. Darcy discloses that the buoyant material may be in the form of a unitary element comprising a base sheet of buoyant material with attached raised portions. It can be seen from figure 20 that the raised portions are substantially thicker than the base sheet. It can be seen from figure 21 that the raised portions include an upper torso portion and a lower torso portion. Darcy teaches that the element is placed in the pocket of the torso garment. It can be seen from figure 6 that the garment has a chest opening with a zipper.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Darcy in view of Khanamirian (US 6,235,661). Darcy does not disclose a fabric sheet of the pocket being laminated to the flotation element. Khanamirian discloses in figures 2 the practice of laminating pocket fabric to the enclosed flotation element. Khanamirian teaches that the lamination produces an ergonomically contoured design which provides the weare superior fit, form, function, protection, and is aesthetically pleasing. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Darcy by using the lamination taught by Khanamirian.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Darcy in view of Grunstein et al. (US 6,260,199). Darcy does not disclose a fastenable back opening. Grunstein discloses a flotation swimsuit that comprises a torso garment with a pocket that retains a unitary flotation element, the element comprising portions of differing thickness. Grunstein's swimsuit has a zippered back opening. Grunstein teaches that the swimsuit is designed for use with a child, and that the back opening facilitates dressing the child. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of

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Darcy by using a zippered back opening as taught by Grunstein. The motivation would be to accommodate a child.

7. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Darcy et al. Darcy does not disclose the recited method steps. The method steps recited in claim 13, however, are inherent in the manufacture and use of the suit disclosed by Darcy. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to devise the claimed method steps based upon manufacture and usage of the suit disclosed by Darcy. The motivation would be to manufacture and use the suit.

Allowable Subject Matter

8. Claim 14 is allowed.

9. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is an examiner's statement of reasons for allowance: the prior art does not teach or suggest the combination of the flotation suit comprising the unitary flotation element disposed in a pocket with a sheet of fabric with a dye indicator.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

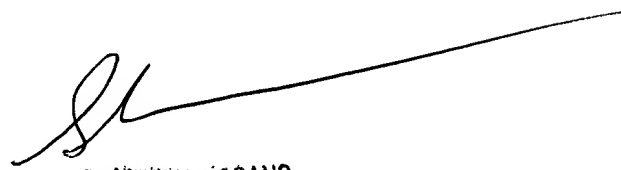
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Edmonds (US 1,291,448) discloses a flotation suit that comprises a torso garment with pockets that retain a unitary flotation member, wherein the member has varying thickness. Morner (US 2,389,735) discloses a flotation suit that comprises a torso garment with pockets that retain a flotation member, wherein the member has a base sheet with raised portions. Bartlett (US 5,013,271) discloses a flotation suit that comprises a torso garment with an attached flotation member, wherein the member has a base sheet with raised portions. Bartlett also discloses a zippered back opening. Meredith discloses a flotation suit that comprises buoyant members.

12. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax numbers for the organization where this application or proceeding is assigned are (703) 308-3519 for both regular and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist at (703) 308-1113.

Andrew D. Wright
Patent Examiner
Art Unit 3617



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